



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued on June 29, 2021 and to recover the cost of the filing fee.

Only the landlords appeared. This matter was scheduled at the request of the tenants. The Residential Tenancy Branch digital file shows the tenants were also sent a reminder notification of the hearing on October 29, 2021 sent to their email address they provided as service. The notification shows the hearing was scheduled for this day at 11:00am.

The landlords stated that they had just received an email from the MPA society that they were informed by the tenants that they had withdrawn their application. The landlords provided a copy of the email during the hearing.

In this case, the tenants did not withdraw their application as they must have the written consent of the landlord to do so. However, as the tenants did not attend the hearing even after receiving a reminder notification, I find the reasons stated in the Notice are unopposed.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenants acknowledged in their application that they received the Notice on June 30, 2021, indicating that the tenants are required to vacate the rental unit on August 1, 2021.

The reason stated in the Notice was that the tenants have:

- Allowed too many occupants into the rental unit;
- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardize the health or safety or lawful right of another occupant or the landlord;
- Puts the landlord's property at significant risk;
- the tenant or a person permitted on the property has caused significant damage to the rental unit or property; and
- Tenants have not done required repairs of damage to the rental unit or property.

The landlord testified that the tenants have too many people staying in the two-bedroom rental unit. The landlord stated that the tenants are using the rental unit to provide shelter to homeless people and that there are often 10 to 15 people there at one time.

The landlord testified that the female tenant simply says they are running a homeless society and can't turn people away.

The landlord testified that when they went to inspect the premises the tenants would not let them inspect the bedrooms and the rental unit was full of garbage and there was at least 7 or 8 people in the premises at the time. The landlord stated that they are smoking, and the rental is in such a state that they were unable to assess damages.

The landlord testified that the tenants also have created some sort of structure in the backyard that is covered in tarps. The landlord stated that they are not sure if they have done this to provide additional shelter or to store property. The landlord testified that the yard is full of garbage and the tenants have moved an area of soil from the property.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the tenants' submission that they received the Notice on June 30, 2021. I have reviewed the Notice and I find the Notice complies with section 52 of the Act.

In this case, I accept the landlord's undisputed testimony that the tenants are using the premises for a purpose that it was not rented for. This is a two-bedroom residential residence, not a shelter for homeless people. I accept the undisputed evidence that there can be between 10 to 15 people staying in the premises. I find this is an unreasonable number of occupants. I find the landlords have proven this reason stated in the Notice.

I also find the tenants have made alteration to the property contrary to their tenancy agreement as they have erected some short of building covered in tarps on the property, which may be for additional accommodation or for storage. The property is in an unreasonable state. This is supported by photographs. I find this puts the landlord property at significant risk.

I find the landlord has proven the Notice and is valid and enforceable. Therefore, I dismiss the tenants' application without leave to reapply.

As the tenancy legally ended on August 1, 2021, the effective date of the Notice, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order must be served on the tenants and may be filed in the Supreme Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Since the tenants were not successful with their application, I find the tenants are not entitled to recover the filing fee from the landlords.

Conclusion

The tenants' application to cancel the Notice, is dismissed. The landlord is granted an order of possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 01, 2021

Residential Tenancy Branch